

Appl. No. 10/621,760  
Amdt. dated July 5, 2006  
Reply to Office action of April 4, 2006

### Remarks

#### Double Patenting:

Claims 1-3 and 5-9 have been provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 5-7, 9, and 13-17 of copending Application No. 10/157,657. Application No. 10/157,657 describes an "Expander driven motor for auxiliary machinery." Applicants assume the Examiner meant Application No. 10/157,674. Application No. 10/157,674 has been allowed, issue fee paid May 23, 2006. The independent claim of the allowed application is limited to: "A deliverable composition comprising: an amphipathic compound, an ethoxylated polyethylenimine, and an siRNA." It is the Applicants' opinion that an ethoxylated polyethylenimine is patentably distinct from a polyvinylamine.

Claims 1-3 and 5-9 have been provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 2, 4, 5, and 11 of copending Application No. 10/345,021. Applicants have abandoned Application No. 10/345,021


#### Rejection of the claims under 35 USC §103:

Claims 1-3 and 5-9 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Wolff et al. (U.S. Patent 5,744,335) in view of Wolfert et al (Bioconjugate Chem. 1999). Applicants have amended the claim 1 to overcome the rejection. '335 teaches only the use of a DNA-binding protein (specifically histone) to form efficient transfection complexes. '335 also clearly differentiates between polycationic DNA-binding proteins, such as histone, and other types of polycationic polymers as evidenced by column 2 lines 20-25. Wolfert et al. clearly demonstrate that not all polymers behave similarly and that condensation of DNA does not directly correlate with transfection ability (page 999, 1<sup>st</sup> column, second paragraph in RESULTS, and page 1001, 1<sup>st</sup> and 2<sup>nd</sup> columns). Wolfert et al. particularly note that polyvinylamine "gave no significant spontaneous transfection when applied to 293 cells in vitro" (page 999, 2<sup>nd</sup> column, first full paragraph). Therefore, one would not have been motivated to combine the teaching of '335 with that of Wolfert et al. Support for the amendment can be found in the specification on page 4 lines 17-19, 23-24, and 28-33. In light of the amendment, Applicants request reconsideration of the rejection.

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The Examiner's rejections are now believed to be overcome by this response to the Office Action. In view of Applicants' amendment and arguments, it is submitted that claims 1-3 and 5-9 should be allowable.

Respectfully submitted,

  
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I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as express mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this date: July 5, 2006.

  
Kirk Ekena